REMARKS

Claims 1-11 are all the claims pending in the application.

The Examiner maintains the rejections of claims 1-8 under 35 U.S.C. § 102(d) as being anticipated by, and claims 9-11 under 35 U.S.C. § 103 (a) as being unpatentable over, Matsumura et al. (Matsumura).

Applicant respectfully traverses the Examiner's rejections as follows.

With regard to Applicant's claims 1-6, 9 and 11, as Explained in Applicant's March 15, 2004 Amendment, one of the features of Applicant's invention as claimed in claims 1, 5, 9 and 10 is "**intracoding an erroneous block**, the location of which is included in the feedback error information, **and its search range, said search range being defined by blocks referenced to encode the erroneous block using an intercoding method**" (claims 1, 5, 9 and 10, emphasis added). The Examiner continues to maintain that "search range [as recited in claims 1, 5, 9 and 10] = a portion that maybe affected by the distortion [as described in Matsumura]" (*see* Final Office Action, paragraph 2).

In particular, the Examiner alleges that the feature of the search range for intracoding an erroneous block being defined by blocks referenced to encode the erroneous block using an intercoding method, as recited in Applicant's claims 1, 5, 9 and 10 is disclosed by Matsumura as follows:

> (the search range of the erroneous block on the transmission side implies interframe coding or intercoding and this limitation is met by [Matsumura] col. 5, ln. 37-42) which teaches "as notification of an error, from the reception side, the transmission side employs the search range of a motion vector for coding the moving picture to estimate **the extent** of a portion (search range) that may be affected by the error" in combination with col.

> 7, ln. 12-17, which teaches a portion that may be affected by distortion due to an error is estimated, and the portion is forcibly coded in the intraframe coding mode ... .
>
> (*See* Final Office Action, paragraph 2, pages 2 and 3, *original emphasis*.)

Applicant respectfully submits that the specific disclosure of Matsumura relied on by the Examiner does not bolster the Examiner's position.

That is, as further explained in Applicant's March 15, 2004 Amendment, Matsumura's description of various estimation techniques for estimating what picture portion **may** be distorted does not disclose, teach or suggest that its "picture portion that may be affected by distortion" includes, not only the erroneous block, but also a specific search range defined by **blocks referenced to encode the erroneous block using an intercoding method.**

Upon close review of the Examiner's analysis, it appears that the Examiner is putting forth an "inherency" argument, whereby the estimated portion that may be affected by distortion due to an error, as disclosed in Matsumura, is inherently defined by blocks referenced to encode the erroneous block using an intercoding method, as recited in Applicant's claims 1, 5, 9 and 10.

Not only does such "inherency" argument fail to find support in the prior art, it is contrary to well established legal principles. *See Tyler Refrigeration v. Kysor Industrial Corp* ., 777 F.2d 687, 689 (Fed. Cir. 1985) ("A feature is inherent if it **naturally occurs** under the conditions set forth in the reference, even though the reference does not expressly mention the feature", emphasis added); *see also Ex parte Levy,* 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Int.) ("In relying upon theory of inherency, the examiner must provide a basis in fact and/or technical

reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art", original emphasis).

Nowhere does Matsumura disclose, teach or suggest **intracoding an erroneous block, and its search range, said search range being defined by blocks referenced to encode the erroneous block using an intercoding method,** as recited in Applicant's claims 1, 5, 9 and 10. Instead, Matsumura teaches quite the opposite:

> only the picture portions that the transmission side assumes to be affected [by the detected error] are forcibly coded in the intra-frame coding picture mode, the other picture portions are coded in the normal manner (see Id., col. 6, lines 25-29).

In fact, absent Applicant's own disclosure, one of ordinary skill in the art would not have known to intracode not only an erroneous block, but the erroneous block and its search range, as recited in Applicant's claims 1, 5, 9 and 10. *See In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993) (The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic); *see also* MPEP §2112 at 2100-40.

Therefore, Applicant's independent claims 1, 5, 9 and 10, as well as the dependent claims 2-4 and 6 (which incorporate all the novel and unobvious features of their respective base claims 1 and 5), are not anticipated by, and would not have been obvious from, Matsumura at least for these reason.

On the other hand, as noted in March 15, 2003 Amendment with regard to claims 7, 8 and 11, Matsumura fails to disclose or suggest at least the following claim limitations:

(e) receiving a second compressed image frame in which an error detected block and a search range of the error-detected block have been encoded by intracoding in response to the feedback error information sent in step (c), from the encoder via the communication network;

(f) decoding the second compressed image frame received in step (e) referring to the error detected block and the search range of the error detected block, to constitute a second image frame; and

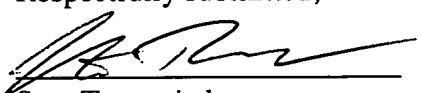
(g) outputting the second image frame restored in step (f).

Therefore, Applicant's independent claims 7 and 11, as well as the dependent claim 8 (which incorporates all the novel and unobvious features of its base claim 7), are not anticipated by, and would not have been obvious from, Matsumura at least for this reason.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Stan Torgovitsky
Registration No. 43,958

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: September 7, 2004